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The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development

Identical notes verbales dated 11 December 2009 from the Permanent Mission of Honduras to the United Nations addressed to the Secretary-General and the President of the General Assembly

The Permanent Mission of the Republic of Honduras to the United Nations presents its compliments to the Office of the Secretary-General and has the honour to transmit herewith a copy of a letter from the Minister for Foreign Affairs, addressed to the Secretary-General and, for his information and for all relevant purposes, the following official documents from the Government of the Republic of Honduras:

1. Guaymuras Dialogue — Tegucigalpa-San José Accord
2. Statement by the Supreme Electoral Tribunal
3. Communiqué of the National Congress of the Republic of Honduras.

The Permanent Mission of Honduras to the United Nations would be grateful if the present letter and its appendices could be circulated to all States Members of the United Nations under agenda item 20 of the sixty-fourth session of the General Assembly.

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Please recycle

Annex to the identical notes verbales dated 11 December 2009 from the Permanent Mission of Honduras to the United Nations addressed to the Secretary-General and the President of the General Assembly

I have the honour to refer to the Tegucigalpa-San José Accord, which was signed on 30 October 2009 and which reflects the outcome of the political dialogue aimed at overcoming the difficulties imposed on Honduras from abroad during recent months. This Accord was negotiated among Hondurans, in compliance with the Constitution and Honduran law, for the purpose of strengthening the rule of law, deepening democracy and ensuring a climate of peace. (See the full text of the Agreement, appendix I.)

The Accord was arrived at by representatives of both parties in a sensible manner and in the spirit of overcoming differences, as Hondurans have traditionally done on the path to peace and democracy.

In the Accord, the parties called on the citizenry to take part peacefully in the elections of 29 November 2009 and they urged the Supreme Electoral Tribunal to authorize and accredit international observation missions.

The general elections, which had been convened on 28 May 2009, were held peacefully, and voter turnout was high. Five political parties participated, along with a large number of independent candidates at the municipal level and candidates running for seats in the National Congress. National and international compliance was outstanding. (See the statement by the Supreme Electoral Tribunal, appendix II.)

Presidential candidate Porfirio Lobo Sosa of the opposition Partido Nacional emerged the victor of this electoral process, which was monitored by more than 400 international journalists; he will govern Honduras for the constitutionally mandated term of four years, beginning on 27 January 2010. Although the final official result has not yet been issued by the Supreme Electoral Tribunal, the candidates publicly recognized on the same day as the election that Mr. Lobo Sosa had won and that the process had been transparent.

The Honduran solution, arrived at by Hondurans within the framework of Honduran law, continued to move forward when the National Congress, in compliance with section 5 of the Tegucigalpa-San José Accord, ratified the decision restoring executive power to the status quo ante of 28 June 2009. The Congress voted to do so in a public vote by roll call, which was broadcasted live by the media, and the legislative act was adopted by a qualified majority of 111 votes in favour and 14 against, with 3 abstentions. (See the 2 December communiqué from the Congress, appendix III.)

Consequently, the Government of the Republic clearly enjoys domestic legitimacy throughout the entire national territory, as well as the express consent of the party that contested its legitimacy.

The facts, Mr. Secretary-General, are conclusive and speak for themselves. In section 7 of the Tegucigalpa Accord, which addresses the normalization of relations, the parties requested the immediate revocation of the bilaterally and multilaterally adopted measures affecting the participation of Honduras in the international

community and its access to all forms of cooperation. Consequently, it is contradictory to maintain legal fictions that were rendered moot by virtue of the execution of the aforementioned Accord. Therefore, I urge you to initiate the process of normalizing relations between the United Nations and its specialized agencies and the State of Honduras — relations which were affected by resolution 63/301, a political resolution that is non-binding. Naturally, such normalization must include the accreditation of the representatives of Honduras at the Secretariat.

Since 1945, Honduras, as one of the founding Members of the United Nations, has demonstrated itself to be a nation that respects international law and that has accepted and fulfilled the obligations set forth in the Charter of the United Nations. It is our wish to continue to contribute to its task of maintaining international peace and security, against which we have never posed a threat.

I should be grateful if you would have this letter and its respective appendices circulated as official documents of the General Assembly, to be considered under agenda item 20 of the sixty-fourth regular session of the General Assembly, entitled "The situation in Central America: progress in fashioning a region of peace, freedom, democracy and development".

(*Signed*) Carlos **López Contreras**
Minister for Foreign Affairs

Appendix I

Guaymuras Dialogue Tegucigalpa-San José Accord for national reconciliation and the strengthening of democracy in Honduras

Preamble

We, the citizens of Honduras, men and women, convinced of the need for strengthening the rule of law, under the protection of our Constitution and the laws of our Republic, deepening democracy and ensuring a climate of peace and tranquillity for our people, have undergone an intense and open process of political dialogue in search of a peaceful and negotiated solution to the crisis in which our country has been submerged in recent months.

As a result of this dialogue, in which the common sense, tolerance and patriotic spirit of all participants have prevailed, we have drafted a political accord which will help us to restore harmonious relations between citizens and ensure an appropriate climate for democratic governance in our homeland. We are certain that this Accord will trace the path towards meeting the pressing demands of Honduran society for peace, reconciliation and democracy.

The conclusion of this Accord demonstrates once again that Honduran men and women are capable of conducting a successful dialogue, thanks to which and through which, they can reach the lofty goals which society expects and the country needs.

In the light of the above, we have reached the following agreements.

1. The Government of National Unity and Reconciliation

In order to achieve reconciliation and strengthen democracy, we shall form a Government of National Unity and Reconciliation consisting of representatives of the various political parties and social organizations who are recognized for their ability, reputation, qualifications and willingness to engage in dialogue and who shall occupy posts in the various ministries and vice-ministries as well as other State entities, in accordance with article 246 and the following articles of the Constitution of the Republic of Honduras.

In view of the fact that prior to 28 June, the Executive branch had not submitted for consideration by the National Congress a general budget proposal on income and expenditure, in accordance with the provisions of article 205, paragraph 32, of the Constitution of the Republic of Honduras, this Government of National Unity and Reconciliation shall respect and operate on the basis of the general budget recently approved by the National Congress for the fiscal year 2009.

2. Refusal to convene a National Constituent Assembly or redraft the Constitution in areas that cannot be amended

In order to achieve reconciliation and strengthen democracy, we reiterate our respect for the Constitution and the laws of our country, and will refrain from issuing appeals to convene a National Constituent Assembly, directly or indirectly, and also refusing to promote or support any referendum that would amend the Constitution to allow a second presidential term, modify the form of Government or contravene any of the articles of our Constitution which cannot be modified.

In particular, we shall not make any public declarations or exercise any type of influence inconsistent with articles 5, 239, 373 or 374 of the Constitution of the Republic of Honduras and we shall vigorously oppose any demonstration contrary to the spirit of those articles and the Special Act governing the referendum and the plebiscite.

3. General elections and the transfer of government

In order to achieve reconciliation and strengthen democracy, we reiterate that, in accordance with articles 44 and 51 of the Constitution of the Republic of Honduras, voting is universal, compulsory, egalitarian, direct, free and secret, and the Supreme Electoral Tribunal has full autonomy and independence for monitoring and implementation on all matters relating to electoral activities and processes.

Furthermore, we call on the people of Honduras to participate peacefully in the next general elections and to avoid any kind of demonstration that opposes the elections or their result, or promotes insurrection, unlawful conduct, civil disobedience or other acts which could result in violent confrontations or transgression of the law.

In order to demonstrate the transparency and legitimacy of the electoral process, we urge the Supreme Electoral Tribunal to authorize and recognize the presence of international missions from the present time until the announcement of the results of the general elections, as well as during the transfer of power, which will take place, in accordance with article 237 of the Constitution of the Republic of Honduras, on 27 January 2010.

4. The Armed Forces and the National Police

In order to achieve reconciliation and strengthen democracy, we confirm our willingness to comply fully with article 272 of the Constitution of the Republic of Honduras, according to which the Armed Forces are available to the Supreme Electoral Tribunal, beginning one month prior to the general elections, in order to guarantee the free exercise of suffrage, the safe keeping, transport and monitoring of electoral materials and other related security matters. We reaffirm the professional, apolitical, obedient and non-deliberative nature of the Honduran Armed Forces. Similarly, we agree that the National Police should strictly comply with the provisions of the special legislation relating to them.

5. The Executive Power

In order to achieve reconciliation and strengthen democracy, in the spirit of the various sections of the proposed San José Accord, we the two negotiating commissions, have decided, respectfully, that the National Congress, as an institutional expression of popular sovereignty, by virtue of its powers, in consultation with the bodies it considers relevant, such as the Supreme Court of Justice, and in accordance with the law, shall make an appropriate decision with regard to "reversal of the status of the Executive Power to the situation prior to 28 June until the conclusion of the current period of Government, 27 January 2010".

The decision adopted by the National Congress shall lay the groundwork for achieving social peace, political calm and democratic governance which society demands and the country requires.

6. The Verification Commission and the Truth Commission

In order to achieve reconciliation and strengthen democracy, we have decided to establish the Verification Commission to consider the commitments made in this Accord, and those deriving from it, to be coordinated by the Organization of American States (OAS). This Commission shall be comprised of two representatives of the international community and two representatives of the national community, one of them to be chosen by each of the parties.

The Verification Commission shall be responsible for confirming that all aspects of this Accord have been strictly complied with, and shall receive for this purpose the full cooperation of Honduran public institutions.

Should the Verification Commission find and declare that any of the commitments undertaken in this Accord have been breached, such measures as it shall determine to be necessary shall be taken in respect of the offender or offenders.

In order to clarify the events that occurred prior to and after 28 June 2009, a Truth Commission shall also be established to identify the acts that led to the current situation and provide the people of Honduras with information that can help to prevent the recurrence of such acts in future.

This Dialogue Commission recommends that the next Government, in the framework of a national consensus, set up a Truth Commission in the first half of 2010.

7. Normalization of relations between the Republic of Honduras and the international community

In committing ourselves to carrying out faithfully the commitments undertaken in the present Accord, we respectfully request the immediate revocation of those bilaterally or multilaterally adopted measures and sanctions which in any way affect the reintegration and full participation of the Republic of Honduras in the international community and its access to all forms of cooperation.

We call on the international community to reactivate as soon as possible current cooperation projects with the Republic of Honduras and to continue with the negotiation of future projects. In particular, we urge the international community to provide us, on the request of the competent authorities, such international cooperation as is necessary and appropriate in order for the Verification Commission and the future Truth Commission to monitor and ensure faithful compliance with the commitments made under this Accord.

8. Final Provisions

Any difference of interpretation or application of the present Accord shall be submitted to the Verification Commission, which shall, in accordance with the provisions of the Constitution of the Republic of Honduras and current legislation and through an authentic interpretation of the present Accord, determine an appropriate solution.

Taking into account the fact that the present Accord is the result of the understanding and fraternity of Honduran men and women, we urge the international community to respect the sovereignty of the Republic of Honduras and

to fully observe the principle enshrined in the Charter of the United Nations of non-interference in the internal affairs of other States.

9. Schedule for compliance with the agreements

In view of the immediate entry into force of this Accord as of the date of signature, and with a view to clarifying the time frames for compliance and monitoring of the commitments made in order to achieve national reconciliation, we agree on the following schedule for compliance:

30 October 2009

1. Signature and entry into force of the Accord
2. Formal presentation of the Accord to the National Congress for the purposes of section 5 on the Executive Power

2 November 2009

1. Establishment of the Verification Commission

Following the signing of this Accord and no later than 5 November

1. Establishment and installation of the Government of National Unity and Reconciliation

27 January 2010

1. Transfer of Government

First half of 2010

1. Establishment of the Truth Commission

10. Final Declaration

In the name of reconciliation and the patriotic spirit that has brought us to the table for dialogue, we undertake to comply in good faith with the present Accord and whatever derives from it.

The world is a witness to this demonstration of unity and peace, to which our civic conscience and patriotic devotion commits us. Together, we shall demonstrate our worth and our resoluteness to strengthen the rule of law and build a tolerant, pluralist and democratic society.

We are signing this Accord in the city of Tegucigalpa, Honduras, on 30 October 2009.

11. Acknowledgements

We take the opportunity to express gratitude for the assistance and good offices of the international community, especially to the Organization of American States and its Secretary General, José Miguel Insulza; the missions of ministers of foreign affairs of the Americas; the President of Costa Rica, Oscar Arias Sánchez; the Government of the United States of America and its President, Barack Obama, and Secretary of State, Hillary Clinton.

12. The entry into force of the Tegucigalpa-San José Accord

For domestic purposes, this Accord shall enter into force upon signature.

For protocol and ceremonial purposes, a public signing ceremony shall take place on 2 November.

Tegucigalpa, Municipality of the Central District, 30 October 2009

Armando Aguilar Cruz

Víctor Orlando Meza López

Vilma Cecilia Morales Montalván

Mayra Janeth Mejía del Cid

Arturo Gerardo Corrales Alvarez

Rodil Rivera Rodil

Appendix II

Statement

The Supreme Electoral Tribunal of Honduras informs the nation and the international community of the following:

1. The general elections which were convened on 28 May 2009 in compliance with the Constitution of the Republic took place throughout Honduras on 29 November. In those elections, candidates were to be elected for the following positions: President of the Republic, 3 vice-presidents, 20 deputies to the Central American Parliament, 128 deputies to the National Congress and 298 representatives of municipal corporations.

2. The elections took place without incident and in an atmosphere of total freedom, with the presence of 494 international observers from 38 countries and 4,126 national observers. The five legally registered political parties took part; those same parties that had taken part in the previous elections in 2005.

3. According to the preliminary data, the winning candidate of the election for the Presidency of the Republic was Mr. Porfirio Lobo Sosa of the National Party of Honduras, the party in opposition to the current Government. His success has already been formally recognized by Mr. Elvin Santos Ordóñez, the Liberal Party candidate in the Government, by Mr. Felicito Ávila, the candidate of the Christian Democratic Party and by Mr. Bernard Martínez, candidate of the Party of Innovation and Unity.

4. The Supreme Electoral Tribunal wishes to note the expressions of support for the electoral process made by various countries, international political associations and individuals who are widely respected regionally and internationally and also the many international observers who were direct witnesses of the elections. The Supreme Electoral Tribunal expresses its appreciation for their demonstration of solidarity and recognizes that their work was carried out in an extremely difficult budgetary situation.

5. The Supreme Electoral Tribunal expresses its appreciation to the Honduran people for turning out in large numbers to exercise their right and duty to cast their vote in order to elect freely, legally and democratically the authorities who will govern the destinies of Honduras over the next four years.

(*Signed*) José Saúl Escobar Andrade
Presiding Magistrate
Supreme Electoral Tribunal

(*Signed*) Enrique Ortez Sequeira
Secretary Magistrate
Supreme Electoral Tribunal

(*Signed*) David Matamoros Batson
Proprietary Magistrate
Supreme Electoral Tribunal

Appendix III

THE CONGRESS OF HONDURAS REJECTS THE REINSTATEMENT OF MR. JOSÉ MANUEL ZELAYA ROSALES TO THE PRESIDENCY OF THE REPUBLIC

The legislative body reaffirms its support for the Constitutional succession that brought Mr. Roberto Micheletti Bain to the Presidency

Tegucigalpa, Honduras, 2 December 2009. By a vote of 111 in favour and 14 against, the National Congress of Honduras today overwhelmingly rejected the reinstatement of Mr. José Manuel Zelaya Rosales to the presidency of the Republic. Additionally, Congress passed a motion supporting the constitutional succession that brought Mr. Roberto Micheletti Bain to the presidency. The congressional deputies resoundingly approved the continuance of Mr. Micheletti in the office of President until January 2010, confirming Decree No. 141-2009, by 111 to 14 votes. The President-elect of the Republic, Porfirio "Pepe" Lobo will take office on 27 January 2010, when the new President of the National Congress bestows the presidential sash upon him.

In making that decision, the National Congress fulfils the responsibility that fell to the legislative body under section 5 of the Tegucigalpa-San José Accord, which was signed on 30 October 2009 by representatives of President Micheletti Bain and Mr. Zelaya Rosales. As stipulated in section 5, the National Congress,

> *"in order to achieve reconciliation and strengthen democracy, in the spirit of the various sections of the proposed San José Accord, we the two negotiating commissions, have decided, respectfully, that the National Congress, as an institutional expression of popular sovereignty, by virtue of its powers, in consultation with the bodies it considers relevant, such as the Supreme Court of Justice, and in accordance with the law, shall make an appropriate decision with regard to 'reversal of the status of the Executive Power to the situation prior to 28 June until the conclusion of the current period of Government, 27 January 2010'.*
>
> *The decision adopted by the National Congress shall lay the groundwork for achieving social peace, political calm and democratic governance which society demands and the country requires."*

Contrary to public statements in various quarters, the Accord makes no type of recommendation with regard to the proper outcome of this decision; it only required that a decision be made.

"For the second time, this Congress has resoundingly expressed its opposition to reinstating Mr. Zelaya Rosales to the presidency. For the second time, congressional deputies elected by the Honduran people have raised their voices in defence of our Constitution and a democratic system of government. There will not be a third time. We demand that the international community respect the final decision of this legislative body, where the popular sovereignty of our people resides," said José Alfredo Saavedra, President of the National Congress and member of the Liberal Party.

Before making its decision, Congress sought opinions from several entities of the Government of Honduras on the legality of a possible reinstatement of

Mr. Zelaya Rosales. As dictated by the Tegucigalpa-San José Accord, the Supreme Court of Justice, the Office of the Chief State Counsel, the Commissioner for Human Rights and the Office of the Attorney-General presented reports on this matter.

These opinions and consultations issued were made available to the congressional deputies for their consideration, even though they were not binding on its final decision.

The decision against the reinstatement of Mr. Zelaya Rosales to the presidency was supported by a majority of deputies from all the political parties represented in the National Congress.

"This Congress has fulfilled its responsibility under the Tegucigalpa-San José Accord in a transparent and democratic manner. We call on the entire international community and on regional bodies, including the Organization of American States, to respect our sovereignty. Having elected a new President, all Hondurans have already begun the process of national unity and reconciliation. Those seeking to continue the controversy and to perpetuate the political crisis in our country are obsessed with the past and with personal agendas, not the welfare of our country," added Ramón Velásquez Nazar, Vice-President of Congress and member of the Christian Democratic Party of Honduras.

The National Congress of Honduras consists of 128 deputies who represent five political parties. Every four years, deputies are elected to a four-year term by the Honduran people.

Tegucigalpa, Honduras, 2 December 2009

CONGRESSIONAL RESOLUTION:

NO TO REINSTATEMENT: 111 VOTES

YES TO REINSTATEMENT: 14 VOTES

THREE MEMBERS DID NOT VOTE

TOTAL NO. OF DEPUTIES: 128

COMMUNIQUÉ ISSUED BY
THE NATIONAL CONGRESS OF THE
REPUBLIC OF HONDURAS,
CENTRAL AMERICA